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7 ANNIE CHANG, et al.,
8 Plaintiffs,
9 v.
10 WELLS FARGO BANK, N.A.,
11 Defendant.

Case No. 19-cv-01973-HSG

**ORDER DENYING MOTION FOR AN
ORDER GOVERNING DISCLOSURE
OF CONFIDENTIAL NON-PARTY
BANK RECORDS PURSUANT TO
FLORIDA STATUTE § 655.059**

Re: Dkt. No. 75

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13 Pending before the Court is Wells Fargo Bank, N.A. (“WFB”)’s Motion for an Order
14 Governing the Disclosure of Confidential Non-Party Bank Records. Dkt. No. 75 (“Motion”).
15 WFB seeks an order permitting it to produce certain non-party documents and records to Plaintiffs
16 “pursuant to” Florida Statute Section 655.059 (“Florida Statute”). On July 28, 2020, the Court
17 held a status conference on the Motion, and on August 18, 2020, the parties filed a status report
18 detailing their efforts to provide notice to the third-party accountholders that Plaintiffs have sought
19 production of documents and records from WFB, to determine whether those accountholders
20 consent to WFB producing the documents. Dkt. No. 80. On August 25, 2020, the Court held a
21 further status conference, and on September 8, 2020, Plaintiffs filed a supplemental brief. Dkt.
22 No. 86.

23 The Florida Statute prohibits the disclosure of a financial institution’s “books and records,”
24 except under certain circumstances. Section 655.059 (1)(e) states in relevant part that:

25 The books and records of a financial institution are confidential and
26 **shall be made available** for inspection and examination **only...** [a]s
27 compelled by a court of competent jurisdiction, **pursuant to a
subpoena** issued pursuant to the Florida Rules of Civil Procedure, or
the Florida Rules of Criminal Procedure, or the Federal Rules of Civil
Procedure, or issued **pursuant to a subpoena** issued in accordance
28 with state or federal law.

1 *Id.* (emphasis added).

2 The “pursuant to a subpoena” limitation reflects that the Florida Statute is intended to
3 apply only where an institution as a non-party is required by subpoena to produce its documents in
4 the context of a dispute between others. For this reason, in *In re Bankatlantic Bancorp, Inc.*
5 *Securities Litigation*, a Florida federal court held that section 655.059 does not apply to a
6 defendant bank that is a party to a civil case in federal court. *See* No. 07-cv-61542, 2010 WL
7 2572183, at *1 (S.D. Fla. June 23, 2010). The Court explained that Section 655.059(1)(e) does
8 not apply “**when the financial institution is a party providing discovery**” and “[t]he plain
9 language of Fla. Stat. § 655.059 states that it only applies when a financial institution provides
10 documents pursuant to a subpoena.” *Bankatlantic*, 2010 WL 2572183, at *2 (emphasis added).

11 Similarly here, WFB is a party-opponent subject to its own independent discovery
12 obligations, and must produce documents in response to Plaintiffs’ discovery requests under Rules
13 26 and 34 of the Federal Rules of Civil Procedure. Accordingly, the Court finds that the Florida
14 Statute does not apply to WFB as a party-opponent in this action, and **DENIES** the Motion to the
15 extent it seeks an order “pursuant to” the Florida Statute. The Court orders WFB to produce
16 documents in this case consistent with and as required by the Federal Rules, without regard to the
17 Florida Statute. The Court has not been presented with, and does not here address, any issues
18 regarding whether Plaintiffs’ document requests are properly scoped and otherwise proper under
19 the Federal Rules.

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21 **IT IS SO ORDERED.**

22 Dated: 9/11/2020

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24 HAYWOOD S. GILLIAM, JR.
United States District Judge